

**BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY**

Meeting Date: 6/18/03

Division: County Attorney

Bulk Item: Yes xx No     

Department: County Attorney

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**AGENDA ITEM WORDING:**

Approval of proposed settlement agreement in Monroe County v. Gustinger.

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**ITEM BACKGROUND:**

The County instituted litigation against Alfred Gustinger to foreclose on a \$74,000.00 code enforcement lien against his property. In February of this year, Mr. Gustinger died in an airplane crash. The estate has offered to settle the matter for \$20,000.00. The property was brought into compliance after the Village of Islamorada assumed jurisdiction over this property.

A copy of the proposed settlement agreement is attached. This agreement will also settle the County's claim against Mr. Gustinger's estate that is pending in the Circuit Court for Miami-Dade County.

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**PREVIOUS RELEVANT BOCC ACTION:**

The Board met in a closed attorney client session to discuss the status of settlement negotiations on May 20, 2003.

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**CONTRACT/AGREEMENT CHANGES:**

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**STAFF RECOMMENDATIONS:**

Approval

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TOTAL COST:                     

BUDGETED: Yes      No     

COST TO COUNTY:             

SOURCE OF FUNDS:                     

REVENUE PRODUCING: Yes xx No      AMOUNT PER MONTH      Year     

APPROVED BY: County Atty      OMB/Purchasing      Risk Management     

DIVISION DIRECTOR APPROVAL: 

J. R. Collins

DOCUMENTATION: Included      To Follow      Not Required     

AGENDA ITEM #     77

IN THE CIRCUIT COURT OF THE SIXTEENTH JUDICIAL CIRCUIT  
IN AND FOR MONROE COUNTY, FLORIDA

MONROE COUNTY,  
Plaintiff,

CASE NO. CAK-98-238

v.

ALFRED GUSTER, JR.,  
Defendant.

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**SETTLEMENT AGREEMENT**

The Board of County Commissioners of Monroe County, Florida (hereinafter referred to as "the County") and Kurt Guster, duly appointed Personal Representative of the Estate of Alfred Guster, Jr., (hereinafter referred to the "estate") hereby state as follows:

1. This agreement is entered into for the purpose of settling the above-captioned matter as well as the County's related claim against the estate of the above-named Defendant Alfred Guster, Jr., which is pending in the 11<sup>th</sup> Circuit Court of the State of Florida, in and for Miami-Dade County, (CASE NO. 2003-843-CP-02) (hereinafter referred to "the probate case").
2. Kurt Guster hereby warrants that he is the duly appointed Personal Representative of the Estate of Alfred Guster, Jr., who died on as of February 17, 2003.
3. The County has agreed to accept \$20,000.00 from the estate to settle the lien that is the subject of the above-captioned foreclosure proceeding.
4. The estate shall tender a check in the amount of \$20,000.00 made payable to the Board of County Commissioner of Monroe County. Said check shall be received by the County Attorney's Office, P.O. Box 1026 Key West, FL 33041-1026 by the close of business on June 30, 2003 or this agreement is *void ab initio*.
5. Upon receipt of said check, the County shall file:
  - a.) a notice of voluntary dismissal with prejudice in the above-captioned matter;

- b.) a notice of satisfaction of the related claim and a release of same in the probate case;
  - c.) a release of lien against the following described property, to wit: Part of Lot 2 Acreage, Tower Matacumbe Key, Monroe County, Florida, RE # 00097670-000000 in the official records of Monroe County; and
  - d.) an order of compliance in Monroe Code Enforcement case number M8-87-119.
6. The personal representative of the Estate of Defendant, Alfred Gustinger, Jr., on behalf of himself and the estate, and all his heirs and assigns do agree to mutually dismiss, release, and/or waive any claim or action against the County that was brought or capable of being brought as a result of the above-captioned matter and/or the underlying code enforcement case.
7. Except as otherwise described herein, each party agrees to bear its own costs including attorney's fees.
8. The parties stipulate that the Court shall retain jurisdiction for the purpose of enforcing the terms of this settlement agreement.

ATTEST:  
DANNY L. KOLHAGE  
CLERK:

BOARD OF COUNTY COMMISSIONERS  
of MONROE COUNTY

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Dixie Spehar, Mayor  
Board of County Commissioners  
Monroe County

ATTEST:

(Notary Public)

By \_\_\_\_\_  
Kurt Gustinger, Personal Representative  
of the Estate of Alfred Gustinger, Jr.

cc: William D. Ward, Esq.  
Robert B. Shillinger, Jr., Esq.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY  
BY \_\_\_\_\_  
ATTORNEY'S OFFICE  
DATE 6/10/03